

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GLEND A GLOVER,

Plaintiff,

-VS-

**TRACY WYNELL JONES d/b/a T.W. JONES
DEVELOPMENT and MARVIN K. MAYE,**

Defendants.

REPLY DECLARATION

Case # 6:05-cv-06124 CVS-JWF

Robert M. Shaddock declares that the following statements are true under penalty of perjury pursuant to 28 U.S.C. 1746:

1. I make this declaration in reply to plaintiff's Notice of Cross Motion for a continuance for depositions pursuant to Rule 56(f) as Plaintiff has not stated by affidavit that facts even exist that could be developed by deposition.

2. Plaintiff's own deposition testimony establishes that any occurrences that occurred prior to March 22, 2003 are barred by the limitations period of 42 U.S. 3613. As plaintiff testified there were no conversations or contact for the year prior to August, 2004, it is not likely that any depositions of the defendants would be to the contrary. Further, the defense that the eviction by Rochester City Court on or about November 22, 2004 is collateral estoppel as to the termination of plaintiff's lease hold interest is established by documentary evidence and the defendant's deposition is not expected to dispute that. Finally, the contentions that the occurrences alleged failed to constitute a discriminatory housing practice within the meaning of 42 U.S. 2604. does not require depositions of the defendants as it a question of law.

3. Declarant requests in the alternative that defendant Maye be granted leave to serve an amended answer setting forth affirmative defenses of statute of limitations and collateral estoppel.

WHEREFORE, Declarant requests that the relief requested by plaintiff be denied and the court grant summary judgment dismissing plaintiff's complaint and/or grant leave to serve an amended answer on behalf of defendant Maye together with such other and further relief as the court may deem just and proper.

HISCOCK & BARCLAY, LLP

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